

IN THE SUPREME COURT OF TENNESSEE
AT KNOXVILLE
September 4, 2008

LON CLOYD v. HARTCO FLOORING COMPANY

Chancery Court for Scott County
No. 9560 Billy Joe White, Chancellor

No. E2007-02041-SC-R3-WC - Filed December 30, 2008

WILLIAM C. KOCH, JR., J., concurring.

I concur with the Court's conclusion that Mr. Cloyd's scapholunate dissociation with radiolunate osteoarthritis is a compensable workers' compensation injury. Mr. Cloyd had the burden of proving that his work-related activities caused his disabling condition. This required him to present expert evidence of causation. *Glisson v. Mohom Int'l, Inc./Campbell Ray*, 185 S.W.3d 348, 354 (Tenn. 2006) (holding that except for the most obvious cases, employees must present expert medical evidence to establish that their injury was caused by their work-related activities). This evidence was provided by Dr. William Kennedy.

Dr. Kennedy's testimony in this case does not contain the same shortcomings that the Special Workers' Compensation Appeals Panel and I noted in his testimony in *Trosper v. Armstrong Wood Products*, ___ S.W.3d ___, ___ (Tenn. 2008) (Koch, J. dissenting). In this case, Dr. Kennedy's opinion is based on his examination of x-rays and medical records made contemporaneously with Mr. Cloyd's October 2004 injury. In the *Trosper* case, Dr. Kennedy had not reviewed x-rays or medical records made contemporaneously with Mr. Trosper's injury. Likewise, the facts of this case show that Mr. Cloyd was continuously symptomatic from the time of his injury in October 2004, unlike Mr. Trosper, who had worked without complaint or medical attention for approximately six years between the date of his alleged injury and the date he sought medical assistance.

WILLIAM C. KOCH, JR., JUSTICE